10/534797 PATENT COOPERATION TREATY



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or accept's St	(2 OI THUOLO 30 MI	a Ruio 70)						
Applicant's or agent's file reference 2002/113 WO	FOR FURTHER ACTION	See Notific Preliminary	cation of Transmittal of International Examination Report (Form PCT/IPEA/416)					
International application No.	International filing date (day)	month/year)	Priority date (day/month/year)					
PCT/EP2003/011728	23 October 2003 (23.	10.2003)	14 November 2002 (14.11.2002)					
International Patent Classification (IPC) or no A61L 9/12	ational classification and IPC							
Applicant								
LTS	LOHMANN THERAPII	E-SYSTEME	AG					
1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.								
2. This REPORT consists of a total of	5 sheets, includ	ing this cover s	heet.					
militarda and are the Dasis 101	ed by ANNEXES, i.e., sheets of this report and/or sheets contact this report and/or sheets contact the contact the contact that the contact the contac	ining rectificat	on, claims and/or drawings which have been tions made before this Authority (see Rule					
These annexes consist of a tot	tal of sheets.							
3. This report contains indications relating to the following items:								
I Basis of the report								
II Priority								
III Non-establishment of	f opinion with regard to novelt	y, inventive ste	p and industrial applicability					
IV Lack of unity of invention								
V Reasoned statement of citations and explana	under Article 35(2) with regard tions supporting such statemen	l to novelty, inv	entive step or industrial applicability;					
VI Certain documents cited								
VII Certain defects in the international application								
VIII Certain observations on the international application								
Date of submission of the demand	Data	farmulation of						
		f completion of	· · · · · · · · · · · · · · · · · · ·					
30 April 2004 (30.04.20	UU4)	15 Fel	oruary 2005 (15.02.2005)					
Name and mailing address of the IPEA/EP	Author	ized officer						
Facsimile No.	Teleph	one No.						

Form PCT/IPEA/409 (cover sheet) (July 1998)

Translation

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

	AY MIC I CIN	rt			PCT/EP2003/011728
I. With	of the repo		•		
	the interm	tional and it	international appli	cation:*	
			as originally filed		
	the descrip	otion:			
	pages			1-19	, as originally file
	pages				, filed with the deman
				, filed with the letter	of
	the claims	:			
	pages			2-17	, as originally file
	pages			, as amended (tog	gether with any statement under Article 1
	pages				, filed with the deman
	pages		1	, filed with the letter	
\boxtimes	the drawin	gs:			
	pages			1/1	· · · · · · · · · · · · · · · · · · ·
	pages				, as originally file , as demands
	pages			, filed with the letter of	
tl	ne sequence	listing part of the	description:		
	pages		•		
	pages			•	, as originally file
					, filed with the demand
	the language	ere available or fur se of a translation f se of publication of	mished to this Autifurnished for the purifurnational a	hority in the following language urposes of international search (under Rule 48.3(b))	to this Authority in the language in which is r Rule 23.1(b)).
	regard to the ternational a elements we the language the language	ere available or fur se of a translation f se of publication of	mished to this Autifurnished for the purifurnational a	above were available or furnished to indicated under this item. hority in the following language urposes of international search (under Rule 48.3(b))	to this Authority in the language in which is r Rule 23.1(b)).
With	regard to the ternational a elements we the language the language or 55.3).	ge of a translation of ge of publication of ge of the translation	mished to this Autifurnished for the puff the international and for the furnished for the puff of the formula and for the formula and for the formula and for the formula and	above were available or furnished to indicated under this item. hority in the following language urposes of international search (under pplication (under Rule 48.3(b)). The purposes of international preliminational prelim	to this Authority in the language in which is r Rule 23.1(b)).
With	regard to the ternational a elements we the language the language or 55.3).	ge of a translation for the ge of a translation of ge of publication of ge of the translation any nucleotide are nation was carried	mished to this Autifurnished for the put fithe international at on furnished for the nd/or amino acid out on the basis of	above were available or furnished to indicated under this item. hority in the following language urposes of international search (underpolication (under Rule 48.3(b)). The purposes of international prelimination of the sequence disclosed in the interface of the sequence listing:	to this Authority in the language in which is r Rule 23.1(b)).
With prelim	regard to the ternational a elements we the language the language or 55.3). regard to inary examination in the language contained contained in the language contained	ge of a translation of the confidence of publication of the translation any nucleotide and nation was carried the international and	mished to this Autifurnished for the put fithe international at on furnished for the nd/or amino acid out on the basis of application in writtens.	above were available or furnished to indicated under this item. hority in the following language arposes of international search (under pulcation (under Rule 48.3(b)). The purposes of international prelimination of the sequence disclosed in the interface of the sequence listing:	to this Authority in the language in which is r Rule 23.1(b)).
With prelim	regard to the ternational arelements we the language the language or 55.3). regard to inary examination and the language in the language in the language or 55.3.	ere available or furge of a translation of ge of publication of ge of the translation any nucleotide are nation was carried at the international are with the international	mished to this Autifurnished for the put fithe international at the international at the furnished for the nd/or amino acid out on the basis of application in writted tional application in	above were available or furnished to indicated under this item. hority in the following language arposes of international search (underpolication (under Rule 48.3(b)). The purposes of international prelimination of the sequence disclosed in the interface of the sequence listing: Item form.	to this Authority in the language in which is r Rule 23.1(b)).
With prelim	regard to the ternational arelements we the language the language or 55.3). regard to inary examinary examinations of the function of the furnished such that the language is a second to the language or 55.3.	ge of a translation of the computation of the translation of the translation any nucleotide are nation was carried the international attentional atten	mished to this Autifurnished for the purished for the international and on furnished for the aution the basis of application in writted to a purished application in writted. Authority in writted	above were available or furnished to indicated under this item. hority in the following language arposes of international search (underpolication (under Rule 48.3(b)). He purposes of international prelimination of the sequence disclosed in the interference form. In computer readable form.	to this Authority in the language in which is r Rule 23.1(b)).
With prelim	regard to the ternational a elements we the language the language or 55.3). regard to inary examinary examinary examinated togethe furnished suffurnished suffur	ge of a translation of ge of publication of ge of publication of ge of the translation any nucleotide are nation was carried at the international absequently to this absequently to this ent that the substantion as file	mished to this Autifurnished for the purished for the international at on furnished for the nd/or amino acid out on the basis of application in writted application in writted. Authority in writted Authority in compact of the compac	above were available or furnished to indicated under this item. hority in the following language arposes of international search (under purposes of international search (under purposes of international prelimination of the sequence disclosed in the interface of the sequence listing: ten form. In computer readable form. In computer readable form. In the international prelimination of the sequence listing: Item form. In computer readable form. In the internation of the internati	to this Authority in the language in which is which is raily examination (under Rule 55.2 and smatternational application, the international not go beyond the disclosure in the
With prelim	regard to the ternational a elements we the language the language or 55.3). regard to inary examinary examinary examinated togethe furnished suffurnished suffur	ge of a translation of ge of publication of ge of publication of ge of the translation any nucleotide are nation was carried at the international absequently to this absequently to this ent that the substantion as file	mished to this Autifurnished for the purished for the international at on furnished for the nd/or amino acid out on the basis of application in writted application in writted. Authority in writted Authority in compact of the compac	above were available or furnished to indicated under this item. hority in the following language arposes of international search (under purposes of international search (under purposes of international prelimination of the sequence disclosed in the interface of the sequence listing: ten form. In computer readable form. In computer readable form. In the international prelimination of the sequence listing: Item form. In computer readable form. In the internation of the internati	to this Authority in the language in which is which is Example 23.1(b)). The range of the language in which is examination (under Rule 55.2 and examination application, the international application, the international application in the language in which is example 23.1(b)).
With prelim	regard to the ternational a elements we the language the language or 55.3). regard to inary examinary examinary examinated togethe furnished suffurnished suffur	ge of a translation of ge of publication of ge of publication of ge of the translation any nucleotide are nation was carried at the international at the international absequently to this absequently to this ent that the substantial application as file ent that the information at the information.	mished to this Autifurnished for the purished for the international at on furnished for the nd/or amino acid out on the basis of application in writted application in writted. Authority in writted Authority in compact of the compac	above were available or furnished to indicated under this item. hority in the following language arposes of international search (under pulcation (under Rule 48.3(b)). The purposes of international preliminate of the sequence disclosed in the interference form. The form. The computer readable form. The form. The form is identified written sequence listing does need.	to this Authority in the language in which is which is ready examination (under Rule 55.2 and/ornational application, the international not go beyond the disclosure in the
With prelim	regard to the ternational a elements we the language the language or 55.3). regard to inary examinary examinary examinated togethe furnished suffurnished suffur	ge of a translation of ge of publication of ge of publication of ge of the translation any nucleotide are nation was carried at the international absequently to this absequently to this ent that the substantial application as file ent that the information as file ent that the information.	furnished to this Autifurnished for the purity of the international at on furnished for the nd/or amino acid out on the basis of application in writted application in writted Authority in writted Authority in compact of the has been furnished has been furnishe	above were available or furnished to indicated under this item. hority in the following language arposes of international search (under pulcation (under Rule 48.3(b)). The purposes of international preliminate of the sequence disclosed in the interference form. The computer readable form. The form. The form the sequence listing does need. The computer readable form is identification of:	to this Authority in the language in which
With prelim	regard to the ternational a elements we the language of 55.3). regard to inary examination and the statement international The statement internation and the deep furnished such that the statement internation and the deep furnished such that the statement internation and stat	ge of a translation of ge of publication of ge of publication of ge of the translation any nucleotide and nation was carried at the international at the international absequently to this absequently to this ent that the substantial application as file ent that the information.	furnished to this Autifurnished for the purished for the international at on furnished for the out on the basis of application in writted application in writted Authority in writted Authority in compact of the compac	above were available or furnished to indicated under this item. hority in the following language arposes of international search (under purposes of international search (under purposes of international preliminate purposes of international preliminate purposes of international preliminate fithe sequence disclosed in the interfethe sequence listing: Item form. In computer readable form. In district written sequence listing does need. In computer readable form is identified of:	to this Authority in the language in which is the Rule 23.1(b)). The range of the language in which is the range of the language in which is the range of the language in which is the language in
With prelim	regard to the ternational a elements we the language the language or 55.3). regard to inary examination of the statement internation and the amendation of the amendation of the district of the statement internation of the district of the statement internation of the amendation of the district of the statement internation of the district of the statement internation of the district of the statement of the statement of the statement of the district of the statement	ge of a translation of ge of publication of ge of publication of ge of the translation any nucleotide and nation was carried at the international at the international absequently to this absequently to this ent that the substantial application as file ent that the information.	furnished for the put furnished for the put fithe international at on furnished for the nd/or amino acid out on the basis of application in writted tional application in writted. Authority in writted Authority in compact furnished has been furnished has been furnished has been furnished in the cancellation.	above were available or furnished to indicated under this item. hority in the following language arposes of international search (under purposes of international search (under purposes of international preliminate purposes of international preliminate purposes of international preliminate fithe sequence disclosed in the interfethe sequence listing: Item form. In computer readable form. In district written sequence listing does need. In computer readable form is identified of:	to this Authority in the language in which is which is ready examination (under Rule 55.2 and smart examination), the international application, the international not go beyond the disclosure in the
With prelim	regard to the ternational a elements we the language the language or 55.3). regard to inary examination of the statement internation and the distribution of the dist	ge of a translation of ge of publication of ge of publication of ge of the translation any nucleotide and nation was carried a the international ger with the substitute of the substit	mished to this Autifurnished for the purity of the international at on furnished for the nd/or amino acid out on the basis of application in writted tional application in writted. Authority in compact of has been furnished	above were available or furnished to indicated under this item. hority in the following language arposes of international search (under publication (under Rule 48.3(b)). The purposes of international prelimination of the sequence disclosed in the interference of the sequence listing: The form. The computer readable form. The disclosed in the interpolation of the sequence listing does need. The computer readable form is identified to of:	to this Authority in the language in which is which is er Rule 23.1(b)). The read of the control of the language in which is the read of the language in which is which is er Rule 23.1(b)). The read of the language in which is the language in which is er Rule 23.1(b)). The read of the language in which is the language in which is er Rule 23.1(b)). The read of the language in which is expected in the language in the language in which is expected in the language in the langu

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No. PCT/EP 03/11728

7.	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Statement			
Novelty (N)	Claims	1-17	YES
	Claims		NO
Inventive step (IS)	Claims		YES
	Claims	1-17	NO
Industrial applicability (IA)	Claims	1-17	YES
	Claims		NO

2. Citations and explanations

This report makes reference to the following documents:

D1: US-A-4 529 125

D2: US-A-4 874 129

D3: FR 2 745 720

- 1. The present application fails to meet the requirements of PCT Article 33(1) because the subject matter of independent claim 1 does not involve an inventive step within the meaning of PCT Article 33(3).
- 1.1 D1 is regarded as the prior art closest to the subject matter of claim 1. D1 discloses (the references in parentheses are to D1):

 a dispenser for the controlled release of volatile substances (see figures 1-3), comprising a reservoir (12) that contains at least one volatile substance (see column 3, lines 40-49), a first control element (18) that exerts a control function that is dependent on the substance properties of the at least one volatile substance and the material properties of the constituents of the first control element (18) (see column 3, lines 51-63: "diffusion layer"), and a second control element (22) that exerts a control function that is independent of the substance

International application No. PCT/EP 03/11728

properties of the at least one volatile substance and the material properties of the constituents of the first control element (18) (see column 3, line 67 to column 4, line 6).

- 1.2 Thus the subject matter of claim 1 differs from the known dispenser in that the first control element has pressure sensitive adhesive properties.
- The problem to be solved by the present invention can therefore be regarded as that of providing a dispenser that can be produced more easily.
- 1.4 The solution in claim 1 of the present application cannot be regarded as inventive for the following reasons (PCT Article 33(3)):

 The control element with pressure sensitive adhesive properties is only one of a number of obvious possibilities from which a person skilled in the art would choose, according to the circumstances, in order to solve the problem of interest, without thereby being inventive (see, for example, D3: figure 5; page 7, line 27 to page 8, line 6; page 3, line 22 to page 4, line 2: "the adhesion of said layers to each other is ensured by an adhesive incorporated in at least one of said layers").
- 2. The same argument applies correspondingly to independent claims 16 and 17. The subject matter of claims 16 and 17 therefore does not involve an inventive step (PCT Article 33(3)).
- 3. Dependent claims 2 to 15 do not contain any features which, in combination with the features of any claim to which they refer, meet the PCT requirements for inventive step (see D1, D2, D3 and the corresponding passages cited in the search report).
